

DEFICIENCY PROGRESS REPORT – UPDATE 1

6/30/09

CUPA: El Dorado County Environmental Management Department

Evaluation Dates: January 7 and 8, 2009
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Update 1 Submittal Date: June 30, 2009

Status: Deficiency 9 was corrected during the oversight inspection on 6/11/08.

Deficiency 1: *The CUPA's Self-Audit reports did not contain some required elements. The CUPA is missing information on its enforcement and permitting activities.*

Preliminary Corrective Action: *By September 30, 2009, the CUPA will submit a Self-Audit report with all the required elements*

Corrective Actions to Date: Information on our enforcement and permitting activities will be included in the Fiscal Year 07/08 Self-Audit report. The Self-Audit report will be submitted by 9/30/09.

Cal/EPA Response to Update 1:

Deficiency 2: *The CUPA is not fully tracking and accurately reporting inspections information on the Annual Inspection Summary Report 3.*

Preliminary Corrective Action: *Re-inspections or follow-up inspections should be included under "other inspections" (column 5) on the Annual Inspection Summary Report. By September 30, 2009, the CUPA will verify that the inspections data on the Annual Inspection Summary Report 3 will be complete and as accurate as possible.*

Corrective Actions to Date: This deficiency was discussed with EMD Hazmat Division Staff assigned to preparing the Annual Inspection Summary Report during staff meetings on February 19 and March 27, 2009, (see attached Deficiency 2 – Agendas). Proper inclusion of re-inspections and follow-up inspections will be added to "other inspections" (column 5) on the 07/08 Annual Summary Report to be submitted by September 30, 2009.

Cal/EPA Response to Update 1:

Deficiency 3: *The CUPA is not fully tracking or accurately reporting enforcement actions taken and the total fines or penalties assessed on the Annual Enforcement Summary Report 4 for the last three fiscal years.*

Preliminary Corrective Action: *By September 30, 2009, the CUPA will verify that all information on the Annual Enforcement Summary Report 4 is complete and as accurate as possible.*

Corrective Actions to Date: Corrective actions taken to date include the addition of release prevention and release detection violation degree categories into our Envision database tracking system. Our agency is awaiting the upgrade of our Envisions software to Envisions Connect, with the hopes that enforcement action tracking will be simplified to allow tracking of office hearings, referrals and monetary penalties. Interim corrective actions will include the set up and use of a separate spreadsheet or Access database tracking system.

Cal/EPA Response to Update 1:

Deficiency 4: *The CUPA has not inspected some of its regulated businesses that are subject to the hazardous materials release and inventory reporting requirements (business plan) at least once every three years. During the hazardous materials business plan file review, six out of ten files had not been inspected within the last three years.*

Preliminary Corrective Action: *On an annual basis, the CUPA shall inspect all facilities at least once every three years. Commencing April 30, 2009, the CUPA will track and submit their progress toward correcting this deficiency, including the number of facilities inspected via the quarterly deficiency progress reports.*

Corrective Actions to Date: Following the program evaluation in January, Hazmat Division field staff were directed to spend a higher percentage of work hours conducting CUPA facility inspections. As a result the number of facilities inspected during the last three years has increased from 535 out of 714 or 75% on 12/31/08 to 628 out of 715 or 88% on 6/30/09.

Of the remaining 87 facilities not yet inspected, over 70 are Aboveground Storage Tank facilities. We had been postponing most of those inspections, waiting for the State to fulfill their obligation to utilize funds collected from operators and present AST training. Our inspection staff completed the AST training on 6/25/09. Now they are beginning to conduct inspections of those facilities.

Cal EMA Response to Update 1:

Deficiency 5: *The CUPA is not verifying that all hazardous materials inventories are being submitted annually on or before March 1st. In addition, the CUPA is not updating the annual inventory pages.*

Preliminary Corrective Action: *The CUPA will verify that all inventories are submitted annually on or before March 1st. By April 8, 2009, the CUPA will submit a progress report toward correcting this deficiency.*

Corrective Actions to Date: Our agency requires annual submission of either a HMBP with inventories or a certification statement indicating there have been no changes to the inventories. Annual compliance dates are facility specific and are based upon initial filing dates. Fees and reporting are not initially prorated or staggered to conform to the arbitrary March 1 date.

To address the apparent lack of annual inventory pages, we reinstitute direct mailing of a standard deficiency letter. Inspection staff will conduct files reviews for all assigned facilities and make direct contact with operators without current plans on file.

Cal EMA Response to Update 1:

Deficiency 6: *The CUPA is not forwarding business plan information to fire agencies within 15 days of receipt and confirmation.*

Preliminary Corrective Action: *The CUPA will forward data collected to other local agencies within 15 days of receipt. The CUPA will develop and submit a plan of correction with the first progress report due June 30, 2009.*

Corrective Actions to Date: Department staff drafted and sent an email on 3/23/09 to all 14 Fire Chiefs (See Deficiency 6 Attachment). Three District Fire Chiefs (Pioneer, Lake Valley, Rescue and El Dorado Hills) have since responded by email indicating they are willing to continue to accept the information on a quarterly basis. One responded in person (El Dorado County). The rest have not yet responded. During the next quarter those chiefs will be contacted directly.

Cal EMA Response to Update 1:

Deficiency 7: *The CUPA is unable to document in certain instances that some facilities that have received a notice to comply for minor violations have returned to compliance within 30 days of notification.*

Preliminary Corrective Action: *By July 29, 2009, please submit to Cal/EPA a RTC certification or a complete follow-up report from two facilities that have been cited for minor violations.*

Corrective Actions to Date: Two completed RTC certifications are attached (Deficiency 7 Attachments).

DTSC Response to Update 1: *DTSC has reviewed your submittals and considers this deficiency as corrected. No further updates are required.*

Deficiency 8: *The CUPA did not implement its graduated series of enforcement for hazardous waste programs as outlined in its I&E Program Plan.*

Preliminary Corrective Action: *The CUPA will implement its graduated series of enforcement per its I&E Program Plan. The CUPA will refresh staff knowledge of the definitions of Class I, Class II and minor violations. A good tool for refresher training may include covering the Cal/EPA "Violations Classification Guidance Document for Unified Program Agencies," which is available on the Cal/EPA Web site under Unified Program-Inspection and Enforcement Resources <http://www.calepa.ca.gov/CUPA/Resources/>. By June 30, 2009, the CUPA will provide violation determination training to its inspectors.*

Corrective Actions to Date: CUPA inspection staff were directed to refresh knowledge of violation definitions during the February 19 and March 27 staff meetings and in a subsequent email (Deficiency 8 Attachment). One inspector attended the 2009 CUPA conference and attended enforcement courses.

DTSC Response to Update 1: *DTSC considers this deficiency as corrected, no further updates are required*

Deficiency 9: *The CUPA did not conduct a complete hazardous waste generator inspection on June 11, 2008.*

Preliminary Corrective Action: *The CUPA inspector corrected this deficiency before the end of the inspection. No further updates are required for this action.*

Corrective Actions to Date: Deficiency corrected 6/8/08.

Deficiency 10: *Half of the underground storage tank (UST) files reviewed were missing Monitoring Plans*

Preliminary Corrective Action: *By April 30, 2009, the CUPA will identify businesses that are missing Monitoring Plans. By July 29, 2009, the CUPA will bring the identified facilities into compliance.*

Corrective Actions to Date: Prior to the re-issuance of annual UST operating permits that expired between 1/8/09 and 6/30/09, those facility files were checked for copies of UST monitoring system plans. Operators of facilities not having a monitoring plan on file were contacted directly by telephone and requested to provide a copy of the plan. The majority of those operators have subsequently submitted a plan. On 6/4/09, to the remaining operators of facilities without a plan on file, the letter included as Deficiency Attachment 10, was sent. As a result 72 out of a total of 81 facilities (89%) have now submitted a monitoring plan. The remaining sites are expected to provide the Department with plans prior to the next progress report submittal date.

SWRCB Response to Update 1: